

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
APRIL 6, 2006**

AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON APRIL 6, 2006 AT 9:15 A.M. IN WARRENTON, VIRGINIA.

Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mrs. Carolyn Bowen; Mr. Roger Martella and Mr. Maximilian Tufts. Also present was Mr. Fred Hodge, Senior Planner.

Mr. Hodge reviewed the site visit agenda. He stated that there would be four (4) site visits as follows:

1. Joseph W. & Donna R. Pullen
2. Dennis L. Showalter
3. Trenis, Inc.
4. The Fauquier SPCA, Inc.

With no further business, the meeting was adjourned at approximately 10:55 a.m., to reconvene at 2:00 p.m. at 10 Hotel Street, Warren Green Meeting Room, Warrenton, Virginia.

MEETING:

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, April 6, 2006, beginning at 2:00 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mrs. Carolyn Bowen; Mr. Serf Guerra; Mr. Roger Martella; and Mr. Maximilian Tufts. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Todd Benson, Assistant Zoning Administrator; Mr. Fred Hodge, Senior Planner and Mrs. Fran Williams, Administrative Specialist.

MINUTES:

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, it was moved to approve the March 2, 2006 minutes.

The motion carried unanimously.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE:

Mrs. Williams read the Public Hearing protocol. Mr. Hodge stated that, to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners.

ZONING APPEAL #ZNAP06-SC-002, EZRA LEADERSHIP INSTITUTE (OWNER/APPLICANT)

Applicant is appealing the Zoning Administrator's determination that a proposed use is classified under the Zoning Ordinance as "College/University", PIN #7916-09-5069-000, located at 6216 Pilgrims Rest Road East, Scott District, Warrenton, Virginia. ***Note: This is a public meeting, not a public hearing.***

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Benson stated that the Zoning Administrator's determination that the proposed facility should be classified as a "college" was based on information provided by the applicant during a meeting with staff wherein they indicated that this would be a training facility for missionaries. Mr. Benson further stated that the Zoning Administrator's determination should be upheld unless the Board finds that her decision was plainly wrong or based upon an erroneous legal principle.

John Foote, Esquire, representative, stated that his client's Statement of Intent clearly indicates that the proposed facility would be a "monastery, retreat, or similar religious residential facility" rather than a "college". Mr. Foote further stated that no degrees or certificates are awarded by this organization and he requested that the Board reverse the Zoning Administrator's determination.

The Board discussed if it has the authority to determine whether the proposed use should be classified as something other than a "college" or "monastery, retreat, or similar religious residential facility".

Pursuant to *Code of Virginia* Section 2.2-3711(A)(7), it was moved by Mr. Van Luven and seconded by Mr. Tufts to go into a closed meeting for the purpose of consultation with legal counsel to specific legal matters requiring the provision of legal advice by counsel relating to the Ezra Leadership Institute International.

The motion carried unanimously.

Upon reconvening from the closed meeting, Mr. Van Luven read the following Certification of Closed Meeting:

The Fauquier County Board of Zoning Appeals, having adjourned into a closed meeting this day for the purposes stated in the resolution authorizing such meeting, does hereby certify that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements

under the Virginia Freedom of Information Act, and

2. Only such public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed or considered in the closed meeting.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Mr. Van Luven, seconded by Mr. Tufts.

AYES: Mrs. Bowen, Mr. Guerra, Mr. Tufts, Mr. Van Luven, Mr. Meadows,
Mrs. Mailler, Mr. Martella.

NAYS: None

ABSTENTION: None

ABSENT: None

On motion made by Mr. Guerra, it was moved, after due notice and hearing as required by the Fauquier County Code and *Code of Virginia*, to uphold the December 12, 2005 determination of the Zoning Administrator that the proposed EZRA Leadership Institute use is a "college".

In that there was no second, the motion failed.

On motion made by Mrs. Bowen and seconded by Mr. Martella, it was moved, after due notice and hearing as required by the Fauquier County Code and *Code of Virginia*, to overturn the December 12, 2005 determination of the Zoning Administrator that the proposed EZRA Leadership Institute use is that of a "college" and that the proposed use is a "monastery, retreat, or similar religious residential facility" as allowed under the Fauquier County Zoning Ordinance.

The motion carried 6 – 1 as follows:

AYES: Mr. Meadows, Mrs. Mailler, Mr. Van Luven, Mr. Tufts, Mrs. Bowen,
Mr. Martella.

NAYS: Mr. Guerra

ABSTENTION: None

ABSENT: None

SPECIAL PERMIT #SPPT06-CR-024, TRENIS, INC. (OWNER)/PIONEER ELECTRIC, INC. (APPLICANT)

Applicant is requesting special permit approval to operate a contractor's office, PIN #7922-92-4627-000, located at 9249 Elk Run Road, Cedar Run District, Catlett, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. Phillip Blankenship, representative, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information and drawings submitted with the special permit application, except Parking Area #1 may not be used unless special exception approval is granted by the Board of Supervisors.
2. Site plan approval is required.

The motion carried unanimously.

SPECIAL PERMIT #SPPT06-SC-025, JEANNIE N. WALDRON (OWNER)/WILLIAM LEY (APPLICANT) – RECTORTOWN EQUINE CENTER

Applicant is requesting amendments to a previously approved special permit for a veterinary clinic, PIN #6061-38-5840-000, located at 8446 Maidstone Road, Scott District, Rectortown, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mrs. Bowen asked if there are any formal violations on the property or if any complaints have been received. Mr. Hodge stated that there are no formal violations at the site. However, staff has received correspondence from a neighbor, a copy of which is attached to and made a part of these minutes, expressing concern that horses are being transported to the facility late at night.

Mr. Meadows opened the public hearing.

Dr. William Ley, applicant, expressed agreement with the staff report. Dr. Ley further stated that the Rectortown Equine Center is a successful business and one that is much needed for the residents of Fauquier County.

Mrs. Mailler asked the applicant what would constitute an "emergency". Dr. Ley responded that an "emergency" would arise if an animal were injured or became ill after regular business hours.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Van Luven and seconded by Mrs. Bowen, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.
7. The Board of Zoning Appeals finds the type and quantity of traffic generated by the use will not adversely affect the safety of the road usage on Route 713 (Maidstone Road) or adversely affect the neighborhood.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The development shall be generally consistent with the information and drawings submitted with the special permit application. This approval includes the four (4) proposed new run-in sheds, but no other new structure is permitted under this application.
2. Any outside lighting will be down-shielded and in accordance with the current Fauquier County Zoning Ordinance.
3. Hours of operation shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday; 8:00 a.m. until 12:00 Noon Saturday, plus emergencies.
4. Fencing and gates shall be installed to ensure secured confinement of animals.
5. Overnight boarders shall be limited to eight (8) horses.
6. Site plan amendment will be necessary for the new structures.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT06-CR-026, AGB WARRANTY SERVICES, LLC
(OWNER)/WILLIAM T. BATES, JR. (APPLICANT) – FOLEY PLUMBING**

Applicant is requesting special permit approval to operate a plumbing shop of more than 5,000 square feet, PIN #6981-22-9110-000, located at 9751 James Madison Highway, Cedar Run District, Warrenton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes. Mr. Hodge stated that the applicant has requested a postponement of action on this item until the next regularly scheduled meeting so that the application can be amended.

Mr. Meadows opened the public hearing.

On motion made by Mrs. Mailler and seconded by Mr. Tufts, it was moved to postpone action on this item until the May 2006 meeting.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT06-CT-027, WARRENTON CHURCH OF CHRIST
TRUSTEES (OWNERS/APPLICANTS)**

Applicants are requesting special permit approval to operate a preschool, PIN #6985-90-1007-000, located at 6398 Lee Highway Access Road, Center District, Warrenton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mrs. Bowen requested clarification of staff's proposed condition to require access to the facility by means of Mosby Drive off Nordix Drive. Mr. Hodge responded that this proposed

requirement would apply only to vehicles entering the site to avoid congestion at the stoplight. However, vehicles exiting the facility would be allowed to use Lee Highway Access Road.

Mr. Meadows opened the public hearing.

Ms. Ann O'Sullivan, representative, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mrs. Mailler and seconded by Mr. Tufts, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The enrollment shall be limited to eighty (80) children.
2. The hours of operation shall be 9:00 a.m. until 1:00 p.m., Monday through Friday.
3. The facility shall be accessed by using Mosby Drive off Nordix Drive to prevent traffic congestion at the stoplight. Drop off traffic may not use Lee Highway Access Road at its intersection with Nordix Drive.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT06-SC-028, BOXWOOD COTTAGE, LLC
(OWNER)/MICHAEL TAYLOR (APPLICANT) – TAYLOR HARRIS INSURANCE
SERVICES**

Applicant is requesting special permit approval to operate a professional office with six (6) or less employees, PIN #6989-78-7158-000, located at 6577 John Marshall Highway, Scott District, The Plains, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes.

The Board discussed possible Virginia Department of Transportation (VDOT) entrance requirements. Staff will request that VDOT not require a commercial entrance since this will continue to primarily be a residential structure.

Mr. Meadows opened the public hearing.

Mr. Michael Taylor, applicant, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Tufts and seconded by Mr. Van Luven, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The development shall be generally consistent with the information submitted with the special permit application.

2. The hours of operation generally shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday.
3. No more than four (4) employees associated with the insurance business.
4. The business is subject to site plan approval.

Mrs. Bowen suggested that a time limit be placed on this special permit since the property is zoned RA (Rural Agricultural).

On amended motion made by Mr. Tufts and seconded by Mr. Van Luven, it was moved to add the following condition of approval:

5. The special permit shall be granted for a period of ten (10) years.

The amended motion carried unanimously.

**SPECIAL PERMIT #SPPT06-CR-029, JOSEPH W. & DONNA R. PULLEN
(OWNERS/APPLICANTS) – PULLEN'S AUTO REPAIR**

Applicants are requesting special permit approval to operate an auto repair shop as a home occupation, PIN #6981-40-7586-000, located at 10039 Clarkes Road, Cedar Run District, Bealeton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. J. Wayne Pullen, applicant, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mrs. Bowen and seconded by Mr. Tufts, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.

5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information, drawings, and photographs submitted with the special permit application.
2. The work must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in any accessory building thereto which is normally associated with a residential use.
3. All employees must reside on the lot and shall not exceed two (2).
4. All work shall be accomplished and vehicles in excess of two (2) shall be located in a completely screened area and shall not be in any required yard.
5. A minimum of two (2) acres shall be required.
6. The business may have a maximum of six (6) vehicles for repair located on the parcel at any time.
7. Hours of operation shall be 8:00 a.m. until 5:00 p.m., Monday through Saturday.
8. The special permit shall be granted for a period of ten (10) years.
9. Site plan approval, as determined by the Zoning Administrator, shall be required.

The motion carried unanimously.

SPECIAL PERMIT #SPPT06-CR-030, DENNIS L. SHOWALTER (OWNER)/LEO J. DE LORGE (APPLICANT) – FAITH BAPTIST CHURCH

Applicant is requesting special permit approval for a place of worship, PIN #7808-08-3516-000, located at 11615 Marsh Road, Cedar Run District, Bealeton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Pastor Leo DeLorge, applicant, expressed agreement with the staff report.

Mrs. Bowen asked the applicant if a sign is proposed for the site. Pastor DeLorge stated that the church intends to use the existing sign.

In that there were no further speakers, Mr. Meadows closed the public hearing.

The Board discussed the occupancy limit of the existing building as well as the parking requirements. Ms. Johnson stated that the building does not currently have a Certificate of Occupancy for assemblies and the occupancy limit will be determined if a change of use is approved.

On motion made by Mr. Tufts and seconded by Mr. Martella, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the drawings, floor plans, and information submitted with this special permit application plat.
2. A minimum of ten (10) parking spaces shall be provided for the total site. Parking may not be located closer than 25 feet to any lot line and must be located a minimum of 105 feet from the centerline of the nearer set of lanes of Route 17.

The motion carried unanimously.

SPECIAL PERMIT #SPPT05-CR-033, THE FAUQUIER SPCA, INC.
(OWNER/APPLICANT)

Applicant is requesting an amendment to a previously approved special permit for an expansion to an existing animal shelter, PIN #7902-51-8200-000, located at 9348 Rogues Road, Cedar Run District, Casanova, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. Bob Counts, representative, expressed agreement with the staff report, and stated that the Fauquier SPCA provides a valuable service to the residents of the County.

The Board discussed the applicant's future plans for the property as well as statistics on what happens to the animals received by the facility.

Mrs. Bowen stated that she would prefer to see landscaping along the perimeter of Rogues Road (Route 602) and screening to conceal the outside runs.

Mrs. Bowen expressed appreciation for the SPCA's contribution to the community, stating that it is one of the best facilities she has seen. Mrs. Bowen requested that the Planning Commission be asked to consider revising the County's Proffer Policy to allow a portion of the funds received from proffers to be allocated to the SPCA.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mrs. Bowen and seconded by Mrs. Mailler, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. All construction shall be in general conformance with the drawings, floor plans, and information submitted with the special permit applications. The paddock area will be relocated, possibly to the rear of the existing building.
2. Landscaping shall be placed along Route 602 outside of the 25' area dedicated to the VDOT right-of-way and continuing to the property line.
3. Site plan approval or waiver is required.
4. Any building constructed along the southern property line shall be of block construction and contain no windows. Should the Building Code require a door, it shall be of solid steel construction.

The motion carried unanimously.

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:53 p.m.

John R. Meadows, Chairperson

James W. Van Luven, Secretary

Copies of all files and materials presented to the BZA are attached to and become a part of these minutes. A recording of the meeting is on file for one year.